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**FILED**  
Clerk  
District Court

**MAR 17 2006**

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

8 **Attorneys for Defendant Todd Keith Johnson**

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN MARIANA ISLANDS**

11 **ALAN STUART MARKOFF, D.D.S. dba**  
12 **TOOTHWORKS and OPEN CHOICE,**

13 **Plaintiff,**

14 **vs.**

15 **TODD KEITH JOHNSON, D.D.S.,**

16 **Defendant.**

) **CIVIL ACTION NO. CV-05-0035**  
)  
)  
) **AFFIDAVIT OF ROBERT J. FILTEAU**  
) **IN SUPPORT OF MOTION TO STAY**  
)  
) **Date : Munson, Chief Judge**  
) **Time : 9:00am**  
) **Judge : APR 13 2006**  
)  
)  
)

**AFFIDAVIT OF ROBERT J. FILTEAU**


State of Texas

County of Harris

Before me the undersigned notary, on this day, personally appeared Robert J. Filteau, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

1. My name is Robert J. Filteau. I am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I am the attorney representing Todd Keith Johnson, D.D.S. in the litigation filed in Houston, Texas. On the 1<sup>st</sup> day of September, 2005, the Plaintiff's Original Petition was filed in the state district court of Harris County, Texas, the 281<sup>st</sup> Judicial District. After having learned that Dr. Markoff would be in Houston on October 3, 2005, I retained the services of a private process server to serve him with process at his residence. As the affidavit of Garon Lyles reflects people were home at the time in Dr. Markoff's residence but would not answer the door bell during the several attempts to serve him with process. The attempts to serve Dr. Markoff with process at his residence were unsuccessful.
3. On behalf of Mr. Johnson, I filed a Motion for Substituted Service on November 1, 2005 which was granted by the Court on December 1, 2005. Again, attempts to serve Dr. Markoff were unsuccessful. On December 19, 2005 an Amended Motion for Substituted Service was filed on behalf of Mr. Johnson and this motion was granted by the Court on January 5, 2006. Six days later the Defendants were served.
4. The Defendants answered the Texas state court action on the 3<sup>rd</sup> day of February, 2006. The Plaintiff initiated discovery in that case on the 14<sup>th</sup> day of February, 2006 by the filing of requests for disclosures. Defendants' responses to the requests for disclosures are due March 16, 2006.
5. Now that Plaintiff has initiated discovery and sought to move this matter forward aggressively the Defendants have filed a Plea in Abatement seeking to abate or stay the state court action.

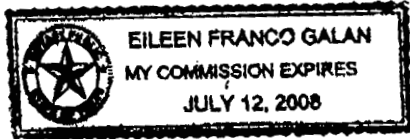
Further affiant sayeth not.

  
Robert J. Filteau

SWORN TO AND SUBSCRIBED before me on the 16<sup>th</sup> day of March,  
2006.

My commission expires:

7/12/08



Eileen Franco Galan  
Notary Public, State of Texas

Notary's printed name:

Eileen Franco Galan